

**REMARKS:**

Claims 1, 3, 10, and 11 are pending in the above identified application. The status of the claims are as recited above. Applicants reserve the right to file a timely divisional or continuation application directed toward any canceled subject matter at a later date. Applicants respectfully submit that amended claims 1 and 3 are in condition for allowance for at least the reasons stated below, as are new claims 10-11.

**I. OBJECTIONS**Abstract

The Examiner objects to the abstract and requests that it be one paragraph in length. In response, Applicants respectfully amend the abstract in satisfaction of MPEP §608.01(b). Applicants respectfully request that objection on this basis be withdrawn.

Claim 3

The Examiner objected to claim 3 on the basis that compositions require at least 2 components and suggested that amending claim 3 to include a “carrier” would obviate this objection. Applicants have adopted the Examiner’s suggestion and amended claim 3 accordingly. Applicants respectfully request that objection on this basis be reconsidered and withdrawn.

**II. REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH**Written Description

Claims 1 and 3 were rejected under 35 U.S. C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application

was filed, had possession of the claimed invention. In particular, the Examiner stated that no written description of any different NT-7 polypeptides that can be structurally envisioned by one skilled in the art are disclosed within the specification, including what structurally constitutes a single “functional variant, analogue and functional fragments” thereof.

Applicants have amended claims 1 and 3 by deleting the phrase “functional variant, analogue and functional fragments.” Accordingly, Applicants believe that claims 1 and 3 are now in condition for allowance and respectfully requests that rejection on this basis be reconsidered and withdrawn.

#### Enablement

Claims 1 and 3 were rejected under 35 U.S. C. § 112, first paragraph, because the specification allegedly does not reasonably provide enablement for NT-7 polypeptides with no recited functionally characteristics, nor any biologically functional equivalents of such without specific structural and functional characteristics. The Examiner acknowledged, however, that the specification is “enabling for the carp NT-7 polypeptide of SEQ ID NO. 1, or functional variants thereof that increase survival and neurite outgrowth of embryonic chick DRG neurons.”

Applicants have amended claims 1 and 3 by deleting the phrase “functional variant, analogue and functional fragments.” Accordingly, Applicants believe that claims 1 and 3 are now in condition for allowance and respectfully requests that rejection on this basis be reconsidered and withdrawn.

## **II. REJECTION UNDER 35 U.S.C. § 102**

Claims 1 and 3 stand rejected under 35 U.S.C. §102(a) as being anticipated by Nilsson et al. The Examiner does not consider the §1.131 Declaration by Ip filed on 4/06/01 under 37 CFR 1.131 sufficient, alleging that the declaration was not signed by all the inventors. Applicants

respectfully direct the Examiner's attention to the enclosed §1.131 Declaration signed by Lai, attached hereto as Exhibit A, attesting that the claimed subject matter was invented prior to the March 13, 1998 publication date of the Nilsson reference. Applicant believes that the declaration by inventor Lai places the application in condition for allowance under 37 C.F.R. § 1.131 because the invention was established after January 1, 1996 in Hong Kong, China, a World Trade Organization (WTO) member country. Accordingly, Applicant respectfully request that the application be placed in condition for allowance on this basis.

According to the Examiner, Applicant's request for consideration has been considered but does not place the application in condition for allowance because "in order for a 1.131 declaration to be persuasive, the work must had been completed within the USA." Applicant respectfully points to the language of 37 C.F.R. § 1.131, which states that prior invention may be established in a World Trade Organization (WTO) member country after January 1, 1996.

Hong Kong returned to the People's Republic of China (China) as a Special Administrative Region on July 1, 1997 after more than 150 years of British rule, and both Hong Kong and China are WTO member countries. Hong Kong was accepted into the WTO on January 1, 1995, and China on December 11, 2001. World Trade Organization, *Understanding the WTO: The Organization Members and Observers* (Apr. 23, 2004), at [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm).

Since the declaration by inventor Lai attested that the claim subject matter was invented in Hong Kong, China on January 8, 1998, and that Hong Kong and China are both WTO member countries, the Applicant respectfully requests that the declaration persuasively places the application in condition for allowance under 37 C.F.R. § 1.131.

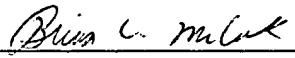
**CONCLUSION:**

This communication is believed to place the present application in condition for allowance. Applicants' have also acknowledges and has addressed the Examiner's additional comments made in the Advisory Action. Applicants enclose a check in the amount of \$860 to accommodate the fee for the Request for Continued Examination (\$385) and the fee for a three-month extension of time (\$475) for a small entity. The Commissioner is hereby authorized to charge any deficiencies in this application to Deposit Account 13-0480, Attorney Docket Number 32144183.9RCE.

If a telephone interview would be of assistance in advancing prosecution of the subject application, the Examiner is requested to telephone the undersigned at the number provided below.

August 24, 2004

Respectfully submitted,

  
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